

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of The Commission,) Application No. C-3026
on its own motion, seeking to)
conduct a 9-month proceeding as)
contemplated by the Federal Com-) AT&T OBJECTIONS OVERRULED
munications Commission in its) AND MOTION TO DISMISS IS
Triennial Review Order adopting) DENIED
new rules for network unbundling)
obligations.) Entered: January 7, 2004

BY THE COMMISSION:

O P I N I O N A N D F I N D I N G S

On December 5, 2003, AT&T Communications of the Midwest, Inc. and TCG Omaha, Inc. (collectively, "AT&T") filed a pleading entitled "Objections to ALLTEL's Notice." By letter dated December 19, 2003, AT&T requested that said pleading be treated as a Motion to Dismiss and requested Oral Arguments on the Motion. On January 5, 2004, ALLTEL filed a Response to AT&T's Objections.

On January 6, 2004, the Commission conducted Oral Arguments on the Objections. Gary Witt and Loel Brooks appeared on behalf of AT&T, and Paul Schudel and Steve Refsell appeared on behalf of ALLTEL.

Mr. Witt argued on behalf of AT&T that ALLTEL lacks standing to challenge the Federal Communication Commission's (FCC) impairment findings. AT&T suggested that ALLTEL's existing or potential obligation to provide unbundled network elements must be resolved in advance of allowing ALLTEL to proceed with its asserted challenge to the FCC's impairment findings. Accordingly, AT&T sought an order from the Commission prohibiting ALLTEL from submitting testimony or other evidence challenging the FCC's impairment findings.

ALLTEL stated that it must be allowed to participate in these proceedings to protect its legal rights. ALLTEL argued that the pleading filed by AT&T is procedurally flawed as it was not timely filed nor was it provided for within the procedural context set forth within Procedural Order No. 1, entered by the Commission on October 28, 2003. Furthermore, ALLTEL's continued participation will only provide additional information upon which the Commission can base its decision. Therefore, ALLTEL requested that AT&T's Objections be overruled and its Motion to Dismiss be denied.

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

Application No. C-3026

PAGE 2

In consideration of the oral arguments and the pleadings filed herein, the Commission hereby overrules AT&T's objections.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that AT&T's Objections are overruled and AT&T's Motion to Dismiss is denied.

MADE AND ENTERED at Lincoln, Nebraska, this 7th day of January, 2004.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Rock Johnson

//s//Anne C. Boyle
//s//Frank E. Landis
//s//Gerald L. Vap

Chairman

Gerald L. Vap

ATTEST:

Ad S Pollok

Executive Director